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ACTING FOR SOCIAL JUSTICE / AGIR POUR LA JUSTICE SOCIALE

NWT CHAPTER

November 30, 2017

To Whom it May Concern:

Re: Comments on the Proposed Mineral Resources Act (MRA)

The NWT Chapter of the Council of Canadians offers the following comments on the proposed NWT Mineral Resources Act. Our comments endeavour to ‘fit’ with the main questions posed on the ITI website.

Gaps

Northerners are asked to identify gaps in legislation related to mineral resources and mining. In order to effectively identify gaps, Northerners should have been presented with a legislative package that brings together proposals for all devolved land and resources management responsibilities. As it stands, the GNWT has chosen not to take a coherent approach to post-devolution legislation responsibilities despite the interrelationship of land and resource use and management laws. The GNWT’s fragmented approach to post-devolution land and resource laws does not provide the basis for effective and comprehensive legislation that protects the public interest and safeguards our resources and environment. Similar difficulties are posed by the lack of linkages between the development of the MRA and current and proposed federal government legislative review processes such as the *Mackenzie Valley Resource Management Act* (MVRMA), the *Fisheries Act*, *Navigable Waters Act*, and *Canadian Environmental Assessment Act*. Put simply, the GNWT cannot manage minerals - or water, or wildlife, or forests, or air –in the absence of an integrated land and resource management regime, which progressive governments have recognized as essential.

Having reviewed some examples of the GNWT’s recent work on post-devolution legislation and policies, namely the Project Assessment Policy and the NWT *Environmental Protection Act*, the NWT Chapter has observed certain trends in the GNWT’s thinking about land and resource management. Specifically, 1) a narrow focus that does not reflect the realities of climate change and ecosystem relationships; 2) limited if any, recognition of the authority of, or relationships with Indigenous governments; 3) little if any, requirement for evidence-based decision-making processes that incorporate both Western and traditional Indigenous scientific knowledge; and 4) a tendency to bestow the Minister responsible with absolute decision-making authority and

preferential discretion in reviewing development proposals. These trends are troubling given the need for all northern governments and peoples to work cooperatively to adapt to climate change and very dynamic socio-economic and global forces. For these reasons, the NWT Chapter recommends that the MRA and all related land and resources legislation include the precautionary principle as a specific requirement of each stage of human interaction with lands and resources.

Engagement with Indigenous Governments

The development of post-devolution legislation offers the GNWT and all NWT citizens, the opportunity to establish new relationships with Indigenous governments. These new relationships must recognize the traditional territories, legislative authority, and historic and cultural place of Indigenous Northerners in the NWT. To this end, the MRA and all related land and resources legislation in the NWT must recognize legislated land and self-government agreements. In its present proposed form, the MRA is incapable of satisfying the obligations of the United Nations Declaration on the Rights of Indigenous People (UNDRIP) that have been endorsed by the federal and territorial governments or the duty to meaningfully consult and accommodate as required by the Canadian Constitution. To meet these obligations, Indigenous governments should be co-authorities in the development and implementation of the MRA in order to truly reflect the interdependent relationships of Indigenous and non-Indigenous governments with respect to land and resource use and management in the NWT. This is not the process that has been employed in work to date on the MRA; it should be.

Incentives to Companies and Prospectors

This is a matter subject to the discretion of governments of the day to be enacted through budgetary measures and policies; incentives must not be seated in legislation. Any publicly supported incentives to private business or a third party should be guided by an evidence-based needs assessment and demonstrated socio-economic benefit to Northerners, NWT communities, and the NWT as a whole. Currently, there is no publicly available evidence of the need for mining industry incentives. To the contrary, the lack of rigorous requirements for binding abandonment and remediation measures and securities are the financial requirements which should be applied to the full mining project cycle through legislation.

Importance of Mining Jobs

Recent GNWT reports have confirmed local perceptions that mining jobs: 1) are no greater in number than those available in the construction, tourism, and a variety of other sectors; 2) are less sustainable than those in many other economic sectors; 3) often fly over the NWT, contributing nothing to the territory; 4) condemn the NWT labour force to a 'monoculture' of skills which reduces sectoral alternatives and perpetuates the ills of boom and bust economic dependence; and/or 5) are gender biased in favour of men, contributing very little to the equality of women or the well-being of families. These characteristics do not provide the basis for the GNWT to privilege mining employment over jobs in other sectors.

In closing, the NWT Chapter looks forward to reviewing a draft MRA legislative proposal that is provided as part of a comprehensive and cohesive land and resources legislative package. To promote this process and as a vehicle for future consultations, we also look forward to the promised 'what we heard' summary which addresses issues raised and government responses to them.

Sincerely,

A handwritten signature in black ink, appearing to read "Lois Little". The signature is fluid and cursive, with a large initial "L" and "L".

Lois Little,
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